IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

DORSEY W. McCULLOUGH,)
Plaintiff,)
v.) Civil Action No. 3:06cv0732
AMERICAN GENERAL INSURANCE, AFRICAN METHODIST EPISCOPAL CHURH, INC., JOHN R. BRYANT, JEROME V. HARRIS and BOOKER T. GUYTON,) Judge Thomas A. Wiseman, Jr.))
Defendants.	<i>)</i>

ORDER

Before the Court is a motion to dismiss (Doc. No. 87) filed by Defendants African Methodist Episcopal Church, Inc. ("AMEC"), Jerome V. Harris, and Booker T. Guyton, purportedly under Rule 12(b)(6), seeking dismissal of Plaintiff Dorsey W. McCullough's state law causes of action on the basis that they are preempted by his claims under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.* The Court previously granted the motion filed by Defendant American General Life Insurance Company ("American General"), incorrectly named in the Second Amended Complaint as American General Insurance, to join in the other defendants' motion to dismiss, such that the motion is deemed to have been brought by all remaining defendants in this matter.

For the reasons explained in the accompanying Memorandum Opinion, the Court finds that the Defendants' motion is meritorious and should be granted. Accordingly, Defendants motion to dismiss Plaintiff's state law causes of action for negligence, conversion, fraud and breach of contract on the basis

¹In his original and first amended complaints, Plaintiff also named Phillip Robert Cousin, Sr. and John R. Bryant as defendants. Prior to the filing of the Second Amended Complaint, Magistrate Judge Joe Brown recommended that the claims against those two defendants be dismissed without prejudice for failure to obtain service of process. (Doc. Nos. 49 & 50, entered 12/22/2006.) Plaintiff omitted reference to Phillip Robert Cousin, Sr. in his Second Amended Complaint but continued to include claims against John R. Bryant (Doc. No. 57, filed 1/18/2007). On January 23, 2007, this Court entered an Order adopted Judge Brown's Report and Recommendation and dismissing the claims against both Bryant and Cousin.

that they are preempted by ERISA is hereby **GRANTED** and those claims dismissed. This matter is referred back to the Magistrate Judge for further case management as necessary.

It is so **ORDERED**.

Thomas A. Wiseman, Jr. Senior U.S. District Judge